



South Florida Water Management District

GOVERNING BOARD MONTHLY MEETING EXECUTIVE SUMMARY AGENDA

This meeting is open to the public

November 13, 2014

9:00 AM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

FINAL

Pursuant to Section 373.079(7), Florida Statutes, all or part of this meeting may be conducted by means of communications media technology in order to permit maximum participation of Governing Board members.

The Governing Board may take official action at this meeting on any item appearing on this agenda and on any item that is added to this agenda as a result of a change to the agenda approved by the presiding officer of the meeting pursuant to Section 120.525, Florida Statutes. The order of items appearing on the agenda is subject to change during the meeting and is at the discretion of the presiding officer. Public Comment will be taken after each presentation and before any Governing Board action(s) except for Governing Board hearings that involve the issuance of final orders based on recommended Orders received from the Florida Division of Administrative Hearings.

1. Call to Order - Dan O'Keefe, Chairman, Governing Board
2. Pledge of Allegiance - Dan O'Keefe, Chairman, Governing Board
3. Recognition of former Governing Board member Glenn Waldman - Dan O'Keefe, Chairman, Governing Board
4. Employee Recognitions - Presented by Blake Guillory, Executive Director
 - November Employee of the Month: Kevin Rodberg, Section Leader, Water Resources Division
 - November Team of the Month: FEMA Reimbursement Team
 - 25-Year Service Award: John Leslie, Lead Environmental Analyst, Office

of Everglades Policy and Coordination

- 30-Year Service Recognition: Rick Miessau, Section Leader, Operations, Engineering and Construction Division
5. Agenda Revisions - Jacki McGorty, District Clerk
 6. Abstentions by Board Members from items on the Agenda
 7. Water Resources Advisory Commission (WRAC) Report - Jim Moran, Chair

Consent Agenda

Members of the public wishing to address the Governing Board are to complete a Public Comment Card and submit the card to the front desk attendant. You will be called by the Board Chair or designee to speak. If you want to request that an item be removed from the Consent Agenda and be discussed by the Governing Board, please advise the Governing Board when you are called upon to speak. Governing Board directives limit comments from the public to 3 minutes unless otherwise determined by the Governing Board Chair. Your comments will be considered by the Governing Board prior to adoption of the Consent Agenda.

*Unless otherwise determined by the Chair, Board action on pulled Consent Agenda items will occur at or after 9:00 a.m. on Thursday. Regulatory items pulled from the Consent Agenda for discussion will be heard during the Discussion Agenda. **Unless otherwise noted, all Consent Agenda items are recommended for approval.***

8. Public Comment on Consent Agenda
9. Pull Items for Discussion from Consent Agenda
10. Board Comment on Consent Agenda
11. Approval of the Minutes for the October 9, 2014, Governing Board Regular Business meeting held in West Palm Beach, Florida.
12. Waivers for Water Resource Advisory Commission (WRAC) members pursuant to Section 112.313, Florida Statutes
13. Regulatory Consent Items
 - Denials
 - **Hendry Venture Mine No 1; Cocoplum Holdings, LLC (WU-Hendry County)** - Staff recommends denial due to applicant's failure to complete the application.
 - Consent Orders
 - **Sunset Trails, LLC; Nine Mile Grove (Highlands County)** - Settlement of an enforcement action regarding non-compliance with permit conditions.
 - **Hickory Tree, LLC; Altman Fishery (Osceola County)** - Settlement of an enforcement action regarding non-compliance with permit conditions due to unpermitted off-site discharge into Alligator Lake.
 - **Kenneth Hyatt; Hyatt Farms (Osceola County)** - Settlement of an enforcement action regarding unpermitted construction and operation of a surface water management system.
 - Conservation Easements, Amendments and Releases
 - **B R 24, LLC, B R 24 (Martin County)** - Staff recommends the approval of a request for the acceptance of a Deed of Conservation Easement with Third Party Beneficiary Rights to the U.S. Army Corps of Engineers (USACE) over an area containing approximately 1.27 acres, which includes three isolated wetlands (0.2, 0.05 and 0.1 acres) along with a 50 foot upland buffer area and which the U.S. Army Corps of Engineers has requested the Applicant preserve through a Minor Permit Modification of ERP Permit No. 43-02569-P.
 - **Deerfield Land Corporation, Lot 8 Multi Family (Osceola County)** - Staff

recommends the approval of a request for the release of a 5.931 acre portion of a 65.536 acre existing Conservation Easement including 5.43 acres of upland conservation and 0.675 acres of upland buffer within a project known as Osceola Corporate Center - Lot 8 Multi-Family in Osceola County. The Applicant is requesting the release to allow for sufficient stormwater treatment facilities and grading to elevate the site for development. A permit Modification (Application No. 140806-6) has been submitted that includes proposed mitigation in the form of purchase of 0.68 freshwater forested UMAM credits from Hatchineha Ranch Mitigation Bank; replanting the 0.675 acres of disturbed upland buffers. Approximately 59.431 acres of the original Conservation Easement areas will remain with: 47.345 acres of wetlands; 2.895 acres of wetland buffer; 9.191 acres of uplands.

14. Right of Way Regulatory Consent Items

- Right of Way Occupancy New Permits
 - Staff recommends approval for a Right of Way Occupancy permit for **MMM Northwest 37, LLC** (Application Number 14-0714-1) authorizing portions of an existing yacht storage facility consisting of aluminum hangers, marginal docks, finger piers, bulkhead and utility services within the north Right of Way of C-4 located immediately east of 37th Avenue in Miami-Dade County.
- Petition for Waiver of District Criteria
 - Staff recommends approval of a request by **Barbara Smith and Frankie Hendrix** (Application Number 14-0714-2) for issuance of Right of Way Occupancy Permit and waiver of the District's criteria for an existing wood deck, storage shed and wood pagoda located within the west right of way of the Golden Gate Main Canal in Collier County.
 - Staff recommends approval of a request by the **City of Port St. Lucie** (Application Number 14-0904-1M) for issuance of a Modification to Right of Way Occupancy Permit Number 13433 and waiver of the District's criteria to allow placement of an additional pavilion within the City's previously permitted park project located within the northerly right of way of the C-24 Canal immediately west of the Southbend Boulevard bridge in St. Lucie County.
 - Staff recommends approval of a request by the **Florida Department of Transportation** (Application Number 14-0821-1M) for issuance of a Modification of Right of Way Occupancy Permit Number 9243 and waiver of the District's criteria for the proposed widening of the previously authorized I-75 pile supported bridges (north & south bound) crossing the Golden Gate Main Canal in Collier County.
 - Staff recommends approval of a request by the **Clewiston Marina Inc.** (Application Number 14-0429-2) for issuance of a Right of Way Occupancy Permit and waiver of the District's criteria to allow seven (7) existing water/electric/cable pedestals to remain; temporary recreational vehicle (RV)/trailer parking and the installation a fence situated 20 feet from the top of bank, running parallel to the C-21 canal, for that portion of the RV park associated with Clewiston Marina located within the southerly right of way of the C-21 canal in Hendry County.

15. **Resolution No. 2014 - 1101** Approve release of canal, road and mineral reservations and issuance of a non-use commitment. (FOLM, Kathy Massey, ext. 6835)

Summary:

The District has jurisdiction over certain reserved rights to construct canal and road right of ways, and mineral rights, together with the right of ingress, egress and exploration. Applications requesting releases of these reservations are routinely received from landowners, attorneys, title companies and lending institutions, who consider the reservations to be title defects. Applications are reviewed by appropriate District staff and applicable local governmental agencies to determine that there is no present or future need for the reservations.

Staff Recommendation:

Staff recommends approval of the following:

- Release of Trustees canal reservations for 410 Lake Osborne Drive, LLC, a Florida limited liability company, (File No. 9-14-3) for 0.37 acres in Palm Beach County
- Release of District canal and road reservations for Avanti 10, LLC, a Florida limited liability company, (File No. 18602) for 2.27 acres in Miami-Dade County
- Release of District mineral reservations for Teresa Brosseit, a single woman, (File No. 18603) for 1.85 acres in Palm Beach County
- Release of District canal reservations for Boynton Beach Associates XXVI, LLLC, a Florida limited liability limited partnership, (File No. 18605) for 0.140 acres in Palm Beach County
- Release of District canal reservations for Standard Pacific of Florida GP, Inc., a Florida corporation, (File No. 18606) for 5.00 acres in Palm Beach County
- Release of District canal and road reservations, and issuance of a non-use commitment for IT 710, LLC, a Florida limited liability company, (File Nos. 18566 and NUC 1659) for 1.08 acres in Martin County

16. **Resolution No. 2014 - 1102** Approve declaring surplus up to 0.79 acres, more or less, of fee title, subject to a reserved perpetual canal right of way easement, in exchange for a perpetual access and boat launch easement to the C-10 Right of Way, located in Section 33, Township 50 South, Range 42 East, C-10 Project, Broward County, subject to satisfaction of certain terms, conditions and requirements; providing an effective date. (FOLM, Kathy Massey, ext. 6835)

Summary:

The Applicants are requesting the District convey a fee owned portion of the C-10 right of way containing up to 0.79 acres, more or less, subject to a reserved perpetual canal right of way easement with respect to the canal portion of the subject parcel, in exchange for an access and boat launch easement to the C-10 right of way. Both parcels are located in Section 33, Township 50 South, Range 42 East, Broward County. The Applicants are constructing a training facility for the education and certification of crewmembers in life boat and rescue boat operation. The District does not currently have land based access to the overbank portion of the subject parcel to be conveyed to the Applicants.

The exchange will be subject to the following terms, conditions and requirements:

- a. The underlying fee owner shall convey to the District a perpetual access road and boat launch easement to the C-10 Right of Way in form, content and substance acceptable to the District, free and clear of all encumbrances, liens, and other objectionable matters.
- b. The Applicants shall provide to the District title assurance acceptable to the District confirming that the perpetual access road and boat launch easement

to the C-10 is free and clear of all encumbrances, liens and other objectionable matters.

c. The reserved perpetual canal right of way easement shall be in form, content, and substance acceptable to the District.

d. Applicants shall comply with all applicable governmental (County and City) subdivision and platting ordinances in connection with the conveyance of the subject District parcel.

e. The Applicant and/or Grantee of the subject District parcel to be conveyed, for itself and all subsequent owners, shall assume responsibility regarding the perpetual maintenance of the canal bank, in perpetuity.

f. Applicants will provide a legal description and sketch for each instrument, subject to District review and approval.

g. Applicants shall pay no less than appraised value for the surplus parcel. The appraiser, appraisal and appraised value must all be acceptable to and approved by the District. Under no circumstances shall the District be obligated to pay any amount to the Applicants, even if the appraised value of the proposed exchange parcel exceeds the appraised value of the subject property to be surplus.

h. The Applicant shall obtain all necessary permits from the District (including but not limited to Right of Way Occupancy Permits), Broward County, City of Dania Beach and any other governmental entities, if any, and pay all associated fees. There is no representation, guaranty or assurance made by the District that the District's Governing Board will in fact approve the issuance of any required District permits, including but not limited to Right of Way Occupancy Permits, and there is no obligation on the part of the District's Governing Board to approve the issuance of any required District permits, including but not limited to Right of Way Occupancy Permits. The District's review process for any required permits, including but not limited to Right of Way Occupancy Permits, will be done separate, independent and unfettered of the fact that the District has approved this Resolution and shall be in accordance with the District's applicable rules.

i. All of the foregoing terms, conditions, and requirements set forth in subparagraphs (a.) through (h.), inclusive, must be satisfied to the satisfaction of the District in its sole and absolute discretion no later than October 31, 2015.

The applicants have requested a right of entry/license agreement to be in place prior to the closing in order to commence implementation of the lifeboat training facility. The District shall grant to RJ Marina Holdings, LLC, a right of entry/license agreement to be in place prior to the closing in order to enable the applicants to commence implementation of a lifeboat training facility.

Staff Recommendation:

Approve the surplus of up to 0.79 +/- acres of fee title, subject to a retained perpetual canal right of way easement with respect to the canal portion of the subject parcel, located within the C-10 right of way in exchange for an access and boat launch easement, located in Section 33, Township 50 South, Range 42 East, Broward County, subject to satisfaction of certain terms, conditions and requirements.

17. **Resolution No. 2014 - 1103** Approve the acquisition of an Access Agreement, at no cost, over a portion of property owned by National Audubon Society at their Corkscrew Swamp Sanctuary to install and monitor a rain gauge, stage recorder and associated telemetry equipment in Collier County, Big Cypress Basin. (FOLM, Marcy Zehnder, ext. 6694)

Summary:

This Access Agreement will allow the District to install and monitor a rain gauge, stage recorder and associated telemetry equipment and to provide future routine and emergency maintenance of the equipment. The site is located on property owned by National Audubon Society at their Corkscrew Swamp Sanctuary in Collier County. This rain gauge, stage recorder, and associated telemetry equipment replaces similar equipment that had been on a seasonal trail that was often underwater and inaccessible. The location of this equipment is vital to monitor rainfall and water levels for the successful decision making and operation of the flood control system in the Big Cypress Basin. District and Corkscrew Swamp Sanctuary staff have reviewed and agreed upon the terms and location for this rain gauge, stage recorder and associated telemetry equipment. (See attached map) However, the District's rights under this proposed access agreement are subordinate and subject to National Audubon Society's right to terminate this proposed access agreement upon sixty (60) days written notice. While unlikely, the potential exists for the District to be required at a future date to remove and/or relocate this proposed rain gauge, stage recorder and associated telemetry equipment which would be at the District's expense.

Staff Recommendation:

Approve the acquisition of an Access Agreement, at no cost, over a portion of property owned by National Audubon Society at their Corkscrew Swamp Sanctuary to install and monitor a rain gauge, stage recorder and associated telemetry equipment in Collier County, Big Cypress Basin; providing an effective date.

18. **Resolution No. 2014 - 1104** Authorize a District lessee to apply for Federal Cost Share Funding under the Environmental Quality Incentive Program for the purpose of implementing and conducting of Best Management Practices on 7,086.00 acres, more or less, of District lands in Polk County; providing an effective date. (FOLM, Ray Palmer, ext. 2246)

Summary:

The Environmental Quality Incentives Program (EQIP) is a voluntary program with the United States Department of Agriculture - Natural Resource Conservation Service (NRCS) that provides financial and technical assistance to agricultural producers through contracts up to a maximum term of ten years in length. These contracts provide financial assistance to help plan and implement conservation practices that address natural resource concerns and for opportunities to improve soil, water, plant, animal, air and related resources on agricultural land and non-industrial private forestland. Many of the best management practice (BMP) manuals are based on these conservation practices. In addition, a purpose of EQIP is to help producers meet Federal, State, and local environmental regulations.

The District will provide technical assistance and facilitation with NRCS to develop appropriate plans for implementation of agreed upon conservation practices during development of the application for this program. Plans may include, but are not limited to, grazing, nutrient, pest, and wildlife management.

Pursuant to the District's current leasing policy under Section 140-10, § 6, District Policies Code, the District's Governing Board must approve a lessee's application for and participation in these programs prior to application, and District staff must approve all practices chosen for implementation. Also, the District will assume no financial obligations related to the resulting EQIP contracts. The lease term must exceed the length of the EQIP contract at the time of execution between the NRCS

and the lessee. The following lessee is seeking authorization: CAF, LLC for 7086 acres in Polk County with practices including livestock pipeline, water well, water facility, brush management and prescribed burning.

Staff Recommendation:

Staff recommends authorization for a lessee to apply for NRCS EQIP program.

19. **Resolution No. 2014 - 1105** Authorize a District lessee to apply for Federal Cost Share Funding under the Environmental Quality Incentive Program for the purpose of implementing and conducting of Best Management Practices on 288.39 acres, more or less, of District lands in St. Lucie County; providing an effective date. (FOLM, Ray Palmer, ext. 2246)

Summary:

The Environmental Quality Incentives Program (EQIP) is a voluntary program with the United States Department of Agriculture - Natural Resource Conservation Service (NRCS) that provides financial and technical assistance to agricultural producers through contracts up to a maximum term of ten years in length. These contracts provide financial assistance to help plan and implement conservation practices that address natural resource concerns and for opportunities to improve soil, water, plant, animal, air and related resources on agricultural land and non-industrial private forestland. Many of the best management practice (BMP) manuals are based on these conservation practices. In addition, a purpose of EQIP is to help producers meet Federal, State, and local environmental regulations.

The District will provide technical assistance and facilitation with NRCS to develop appropriate plans for implementation of agreed upon conservation practices during development of the application for this program. Plans may include, but are not limited to, grazing, nutrient, pest, and wildlife management.

Pursuant to the District's current leasing policy under Section 140-10, § 6, District Policies Code, the District's Governing Board must approve a lessee's application for and participation in these programs prior to application, and District staff must approve all practices chosen for implementation. Also, the District will assume no financial obligations related to the resulting EQIP contracts. The lease term must exceed the length of the EQIP contract at the time of execution between the NRCS and the lessee. The following lessee is seeking authorization: Jeana and Robert D. Driggers for 288.39 acres in St. Lucie County for practices including brush management, fence, heavy use area protection, herbaceous weed control, livestock pipeline, structure for water control, watering facility.

Staff Recommendation:

Staff recommends authorization for a lessee to apply for NRCS EQIP program.

20. **Resolution No. 2014 - 1106** Authorize a District lessee to apply for Federal Cost Share Funding under the Environmental Quality Incentive Program for the purpose of implementing and conducting of Best Management Practices on 1,321.83 acres, more or less, of District lands in St. Lucie County; providing an effective date. (FOLM, Ray Palmer, ext. 2246)

Summary:

The Environmental Quality Incentives Program (EQIP) is a voluntary program with the United States Department of Agriculture - Natural Resource Conservation Service (NRCS) that provides financial and technical assistance to agricultural

producers through contracts up to a maximum term of ten years in length. These contracts provide financial assistance to help plan and implement conservation practices that address natural resource concerns and for opportunities to improve soil, water, plant, animal, air and related resources on agricultural land and non-industrial private forestland. Many of the best management practice (BMP) manuals are based on these conservation practices. In addition, a purpose of EQIP is to help producers meet Federal, State, and local environmental regulations.

The District will provide technical assistance and facilitation with NRCS to develop appropriate plans for implementation of agreed upon conservation practices during development of the application for this program. Plans may include, but are not limited to, grazing, nutrient, pest, and wildlife management.

Pursuant to the District's current leasing policy under Section 140-10, § 6, District Policies Code, the District's Governing Board must approve a lessee's application for and participation in these programs prior to application, and District staff must approve all practices chosen for implementation. Also, the District will assume no financial obligations related to the resulting EQIP contracts. The lease term must exceed the length of the EQIP contract at the time of execution between the NRCS and the lessee. The following lessee is seeking authorization: Diamond 3 Cattle Company, LLC for 1321.83 acres in St. Lucie County for practices including brush management, fence, livestock pipeline, water well, watering facility, and pumping plant.

Staff Recommendation:

Staff recommends authorization for a lessee to apply for NRCS EQIP program.

21. **Resolution No. 2014 - 1107** Authorize entering into a 160 day contract with JMS Construction Services, Inc., the lowest responsive and responsible bidder, for the STA 1W Test Cell Refurbishment Soil Replacement project, for a total amount of \$643,821.00, for which ad valorem funds are budgeted in FY15. (OEC, John Mitnik, ext. 2679)

Summary:

The STA 1W Test Cell Refurbishment Soil Replacement ties into the Restoration Science Study - Evaluation of Impacts of Deep Water Inundation Pulses on Cattail Sustainability (Cattail Study) identified in the Restoration Strategies Regional Water Quality Plan in Palm Beach County, Florida. This refurbishment is necessary to provide proper soil for successfully implementing the Cattail Study, which will be conducted within a subset of the existing northern test cells. The Cattail Study is to investigate and increase the understanding of critical factors that may influence phosphorous treatment performance. It will work in conjunction with the existing Everglades Stormwater Treatment Areas (STAs) to meet the WQBEL parameters.

The project is located in the northeasterly corner of STA 1W and consists of removal of some of the existing soil to achieve evenly graded subsurface and the addition of well mixed fresh soil in all fifteen (15) of the northern test cells in STA 1W.

Staff Recommendation:

Staff recommends approval to enter into a 160 day contract in the amount of \$643,821.00 with JMS Construction Services, Inc., the lowest responsive and responsible bidder, for the construction of the STA 1W Test Cell Refurbishment Soil Replacement.

22. **Resolution No. 2014 - 1108** Approving amending Contract 4600002805 with Telvent USA LLC, a Schneider Electric Company, for continuing long term maintenance of the Water Management Supervisory Control and Data Acquisition (SCADA) System software such that the contract be extended through November 30, 2017 and the Contract not-to-exceed amount increased by \$602,706.00 for which \$142,580.00 in ad valorem funds which are budgeted in FY15 and the remainder subject to Governing Board approval of the FY16 through FY18 budgets. (OEC, Jeff Kivett, ext. 2680)

Summary

The SFWMD utilizes Telvent (a Schneider Company) OASyS software as the Supervisory Control and Data Acquisition (SCADA) software to remotely monitor and/or control the 16 county wide Water Management System including Storm Water Treatment Areas; the original Central and Southern Flood Control System; and other hydraulic, hydrological and meteorological data collection sites. Due to the proprietary nature of the software, the District has, since 2002, entered into contractual relationships with Telvent USA LLC for ongoing maintenance of the system. The current maintenance contract with Telvent USA LLC is active through June 16, 2015 with remaining not-to-exceed amount of \$10,121.31. The proposed Contract amendment extends the maintenance contract (4600002805) through November of 2017 and increases the not-to-exceed amount by \$602,706.00.

This action is critical in maintaining the SCADA Software until its successor is placed into service. The SCADA software replacement project that effectively replaces the existing SCADA Software through a competitive process is scheduled to coincide with the end dates of the Telvent USA LLC contracts as amended by this action.

Staff Recommendation

Staff recommends approval of the 2-1/2 year contract extension and the \$602,706.00 increase in the not-to-exceed amount.

23. **Resolution No. 2014 - 1109** Authorize entering into a five-year cooperative agreement with Florida Fish and Wildlife Conservation Commission, for oyster monitoring in the Northern Estuaries on the Southeast coast of Florida in the amount of \$680,000 of which \$136,000 of ad valorem funds are budgeted for FY15; and the remainder is subject to Governing Board approval of the FY16-FY19 budgets. (Contract No. 4600003152) (WR, Barbara Welch, ext. 2483)

Summary

This five-year contract with Florida Fish and Wildlife Conservation Commission is to continue and refine the long-term monitoring program for oysters (*Crassostrea virginica*) in the Northern Estuaries, Southeast Coast of Florida by collecting basic biological information, measuring the health, status and density of living oysters in the St. Lucie River and Estuary and Loxahatchee River. The biological information collected (size, growth, survival, reproduction), and measures of health status (disease) on living oysters are to be conducted at five locations within the St. Lucie Estuary and Loxahatchee River. This project is directly linked to the monitoring or research component identified in the Comprehensive Everglades Restoration Program (CERP) / REstoration COordination and VERification (RECOVER) Northern Estuaries module of the Monitoring and Assessment Program (MAP). Currently there is \$136,000 budgeted for FY15 with an additional \$544,000 to be allocated for FY16-19 per annual budget approval.

Staff Recommendation

Staff recommends approval of this contract.

24. **Resolution No. 2014 - 1110** Authorize entering into a three year agreement with Presidio Technology Capital LLC for the financing of Cisco Systems hardware and software maintenance, using the Western States Contracting Alliance Contract (WSCA) #43220000-WSCA-14-ACS, in the amount of \$612,460 for which ad valorem funds in the amount of \$204,154 are budgeted in FY15 and the remainder is subject to Governing Board approval of the FY16 and FY17 budgets. (AS, Doug Bergstrom, ext. 6214)

Summary

In September 2014, the Governing Board approved a one year purchase order for Cisco Systems hardware and software maintenance. The Information Technology Bureau negotiated a revised quotation with Presidio Technology Capital LLC, an authorized Cisco Systems reseller, offering a substantial savings for a three year agreement. This request is to approve a three year agreement for the financing of Cisco Systems hardware and software maintenance with Presidio Technology Capital LLC, resulting in an estimated \$233,000 savings over the three year period. The three year total is \$612,460. The time period for support is December 1, 2014 through November 30, 2017 and will be procured from Presidio Technology Capital LLC using the Western States Contracting Alliance Contract (WSCA) #43220000-WSCA-14-ACS.

Staff Recommendation

Staff recommends approving a three year agreement with Presidio Technology Capital LLC for Cisco Systems network hardware and software maintenance, for the time period December 1, 2014 - November 30, 2017, using the Western States Contracting Alliance Contract (WSCA) #43220000-WSCA-14-ACS, in the amount of \$612,460 for which ad valorem funds in the amount of \$204,154 are budgeted in FY15 and the remainder is subject to Governing Board approval of the FY16 and FY17 budgets.

25. **Resolution No. 2014 - 1111** Authorizing a settlement agreement in the amount of \$95,000.00, plus \$11,550.00 for statutory attorney's fees and \$9,750.00 for expert fees and costs, for which dedicated funds (Florida Forever Trust Fund) are budgeted, for a condemnation action involving approximately 5 acres (Tract No. 005-012 – LW Mayhood Trust), within the designated boundaries of the Southern Corkscrew Regional Ecosystem Watershed ("Critical Crew") project, styled South Florida Water Management District v. LW Mayhood Trust, et al., filed in the 20th Judicial Circuit, Lee County, Florida, Case No. 11-CA-002070. (OC, Edward L. Artau, ext. 6431)

Summary

Since April of 2001, the South Florida Water Management District ("District") has been involved in numerous eminent domain (condemnation) actions to carry out the Critical CREW Project authorized by Section 373.1501, Florida Statutes. The District had previously determined that Tract No. 005-012 (5 acres), owned by LW Mayhood Trust, was needed for the Critical Crew Project, and therefore obtained an Order of Taking on October 5, 2011, and took ownership of the tract upon making its good faith deposit on October 7, 2011, as part of its quick take proceeding. A proposed settlement of this eminent domain action was reached that would complete condemnation of this tract for the Critical CREW Project in the amount of \$95,000

(39.71% over the District's appraised value of \$68,000.00), plus statutory attorney's fees of \$11,550.00 and expert fees and costs of \$9,750.00.

Staff Recommendation

Staff recommends approval. The proposed settlement would complete condemnation of 5 acres needed for the Critical CREW Project in Lee County in the amount of \$95,000.00 (39.71% over the District's appraised value of \$68,000.00), plus statutory attorney's fees of \$11,550.00 and expert fees and costs in the amount of \$9,750.00. The District previously deposited \$60,000 on October 7, 2011, as part of its quick take proceeding. The District would therefore need to make a net additional deposit of \$56,300.00 upon approval. This settlement resolves all claims for compensation from the District, avoiding the uncertainties associated with a jury trial, and the District's expenditure of funds to pay both the District's and the property owner's additional legal costs associated with a jury trial.

26. **Resolution No. 2014 - 1112** Authorize submittal of the proposed 2015 Priority Water Body List and Schedule for Minimum Flows and Levels and Water Reservations to the Florida Department of Environmental Protection for review and approval pursuant to section 373.042(2), Florida Statutes. (WR, Don Medellin, ext. 6340)

Summary

Florida law (Section 373.042(2), Florida Statutes) requires the water management districts to submit a list and schedule annually to the Florida Department of Environmental Protection (FDEP) which prioritizes water bodies for developing minimum flows and levels (MFL) and water reservations.

The 2015 Priority Water Body List and Schedule includes the ongoing evaluation of the Caloosahatchee River MFL and the Kissimmee Basin water reservation. The District will continue to collect data and evaluate new information for the Caloosahatchee River to assess the need to revise the existing Caloosahatchee River MFL. Additional evaluations and model development will also be performed. The Kissimmee Basin reservations will provide protection for fish and wildlife in the Kissimmee Chain of Lakes, the Kissimmee River and its floodplain in the central Florida region.

Staff Recommendation

Staff recommends approval of this resolution authorizing the submission of the 2015 Priority Water Body List to the FDEP for review and approval.

27. Authorize publication of a Notice of Rule Development in the Florida Administrative Register, and authorize review from the Office of Fiscal Accountability and Regulatory Reform, to amend Chapter 40E-3, F.A.C., to create a new rule for multiple wells under a single permit, include hyperlinks to delegation agreements with local government agencies, update materials incorporated by reference, adopt updated rules of the Department of Environmental Protection, and update rule references. (REG, Kellie Madison, ext. 6906)

Summary:

The District is proposing to update its water well rules to include a new rule for multiple wells under a single permit, include hyperlinks to delegation agreements with local government agencies, update materials incorporated by reference, adopt

updated rules of the Department of Environmental Protection, and update rule references.

Staff Recommendation:

Authorize publication of a Notice of Rule Development in the Florida Administrative Register, and authorize review from the Office of Fiscal Accountability and Regulatory Reform, to amend Chapter 40E-3, F.A.C., to create a new rule for multiple wells under a single permit, include hyperlinks to delegation agreements with local government agencies, update materials incorporated by reference, adopt updated rules of the Department of Environmental Protection, and update rule references.

28. Authorize publication of a Notice of Rule Development in the Florida Administrative Register to amend Chapters 40E-1, 40E-4, 40E-41, and the “Environmental Resource Permit Applicant’s Handbook Volume II: For Use Within the Geographic Limits of the South Florida Water Management District,” and request review from the Office of Fiscal Accountability and Regulatory Reform, to make minor changes through the Statewide Environmental Resource Permitting Phase II rulemaking process. (REG, Anita Bain, ext. 6866)

Summary

The Department of Environmental Protection (DEP) is currently in rulemaking to amend the Statewide Environmental Resource Permit rules found in Chapter 62-330, Florida Administrative Code (F.A.C.), and Environmental Resource Permit Applicant’s Handbook Volume I: General and Procedural. The District is proposing minor amendments to its environmental resource permitting rules found in Chapters 40E-1, 40E-4, 40E-41, and the “Environmental Resource Permit Applicant’s Handbook Volume II: For Use within the Geographic Limits of the South Florida Water Management District.” These minor changes include renaming and uploading maps in Chapter 40E-41, F.A.C., correcting dates of listed forms, deleting a reference to Noticed General Permit, clarifying incorporation language, and adopting amended rules of DEP in Chapter 62-330, F.A.C..

Staff Recommendation

Authorize publication of a Notice of Rule Development in the Florida Administrative Register, and request review from the Office of Fiscal Accountability and Regulatory Reform, to amend Chapters 40E-1, 40E-4, 40E-41, F.A.C. and the “Environmental Resource Permit Applicant’s Handbook Volume II: For Use within the Geographic Limits of the South Florida Water Management District,” to make minor changes to rename and upload maps, correct dates of listed forms, delete a reference to Noticed General Permit, clarify incorporation language, and adopt amended rules of the Florida Department of Environmental Protection in Chapter 62-330, F.A.C.

29. Board Vote on Consent Agenda
30. General Public Comment
31. Board Comment

Discussion Agenda

32. Technical Reports

A) Water Conditions Report - Jeff Kivett, Division Director, Operations, Engineering and Construction Division (ext. 2680)

B) Moving Water South - Jeff Kivett, Division Director, Operations, Engineering and Construction Division (ext. 2680)

C) Ecological Conditions Report - Terrie Bates, Division Director, Water Resources Division (ext. 6952)

33. Operations Maintenance & Construction Update - Karen Estock, Division Director, Field Operations & Land Management Division (ext. 6282)

Summary:

This is a first in a series of OMC presentations that will be made over the next 3-4 months to the Governing Board.

This presentation (November) will cover our field infrastructure including: pump stations, water control structures, navigation locks, canals, levees, field stations and District Lands. In addition, it will show the increase of the District's Infrastructure from 1999 through 2014, and how the focus of infrastructure operations have changed, to include water quality, water supply and environmental restoration. The presentation will briefly highlight OMC's organizational structure and an overview of OMC's portion of the FY15 budget.

Staff Recommendation:

This item is for information only; no action is required.

34. Approval of Inspector General's Audit Report and Audit Plan - Tim Beirnes, Inspector General (ext. 6398)

Summary

- Approval of Inspector General's Audit Report - Audit of Dispersed Water Management Program
- Approval of Proposed Audit Plan for Fiscal Year 2015

Staff Recommendation

The Audit and Finance Committee Charter provides for the Board's review and approval of audit reports. Inspector General recommends approval of the Audit of Dispersed Water Management Program.

The Audit and Finance Committee Charter provides for the Board's review and approval of the Office of Inspector General's annual work plan. Inspector General recommends approval of the Proposed Audit Plan for FY 2015.

35. **Resolution No. 2014 - 1113** Authorizing an eighteen (18) month agreement with Collier County in an amount not to exceed \$1,250,000 for the construction of Lely Area Stormwater Improvement Project (LASIP) County Barn Road, for which dedicated Big Cypress Basin ad valorem funds are budgeted; providing an effective date. (BCB, Lisa Koehler, ext. 7603)

Summary

Since FY06, the District has provided financial assistance to local governments within the Big Cypress Basin for flood control, natural system restoration, water quality improvement, and alternative water supply projects that meet objectives of the Big Cypress Basin Strategic Plan. This item is being brought before the Governing Board for authorization by resolution to enter into an eighteen-month cost share agreement with Collier County, which has requested financial assistance for the County Barn Road portion of the Lely Area Stormwater Improvement Project (LASIP).

LASIP is a comprehensive stormwater system for an 11,135-acre area of East Naples. It contains two major outfall features, the Lely Main Canal and the Lely Manor Canal, which discharge to the Rookery Bay National Estuarine Research Reserve, a 110,000-acre mangrove estuary and Class II Outstanding Florida Waters. The County's overall project cost for LASIP is over \$60M, of which, the District has provided approximately \$6.7 million. The County Barn Road portion is integral to the rest of the project and the proposed stormwater conveyance system improvements will provide additional flood protection for the LASIP drainage area and improve the quality of stormwater entering Rookery Bay. The estimated total project cost for this phase of the LASIP County Barn Road is approximately \$5 million.

Staff Recommendation

Staff recommends execution of an eighteen-month Agreement (4600003145) that will provide up to \$1,250,000 or 25% of actual eligible project costs, whichever is less, to Collier County for LASIP County Barn Road.

36. **Resolution No. 2014 - 1114** Authorize declaring Surplus District Tract No. JE10E-083, containing 6.56 acres, more or less, located in Martin County, Florida; Entering into Cooperation Agreement with Florida Power & Light Company (FPL) to convey to FPL, for consideration of \$50,000, a substation utility easement over District Tract No. JE10E-083, with option to acquire fee title, and a drainage easement over District Tract JE10E-076, containing 0.88 acres, more or less, to enable FPL to power the C-44 Reservoir and Stormwater Treatment Area Project; Entering into a Transmission Line Right of Way Consent Agreement with FPL for the District's use of FPL's Transmission Line Right of Way for C-44 Project purposes, with a contingent liability in the amount of not to exceed \$5,000,000, of which \$1,000,000 of ad valorem funds are budgeted in FY15 and the remainder is subject to Governing Board approval in future fiscal year budgets. (Contract Nos. 4600003164 and 4600003165) (OEC, John Mitnik, ext. 2679)

Summary:

The District is implementing the C-44 Reservoir and Stormwater Treatment Area Project (C-44 Project) in Martin County on approximately 12,000 acres of land. Florida Power & Light Company (FPL) will be supplying permanent power to the Project. In order to facilitate the timely provision of power, FPL will need to acquire from the District (1) a substation utility easement over Tract No. JE10E-083,

containing 6.56 acres, more or less, as identified on attached Exhibit "A", with FPL's option to acquire fee title, and (2) a drainage easement over Tract No. JE10E-076, containing 0.88 acres, more or less, as identified on Exhibit "A". FPL will pay as consideration \$50,000 which is the appraised value. The Cooperation Agreement provides for the transfer of these land interests to FPL. FPL will then construct, at its expense, a power substation distribution facility on the land to service the Project and any other third party customers. Since FPL has the option to acquire the fee title to Tract No. JE10E-083, the Governing Board will need to declare this Tract as surplus.

Additionally, the District will need to install canals and other improvements within FPL's Transmission Line Right-of-Way within the C-44 Project area. FPL is an easement holder with express rights of consent prior to any alteration or excavation within the approximately 12 miles of FPL Right-of Way as depicted in the attached Exhibit "B". FPL's consent is required for District use of the FPL Right-of-Way and is a condition of the Cooperation Agreement. Under the Right-of-Way Consent Agreement, FPL approves the District's plans and specifications for improvements within the FPL Right-of-Way, and once the Project is operational, the District has a contingent liability to reimburse FPL for mitigation measures taken due to unacceptable increases in bird outages at the transmission lines within the vicinity of the C-44 Project area, with a maximum total exposure not to exceed \$5 Million. The District's will encumber \$1 Million in ad valorem funds for this contingency in the current Fiscal Year, and the \$4 Million balance is subject to the future fiscal year appropriation by the Governing Board.

Staff Recommendation:

Staff recommends (1) declaring surplus District Tract No. JE10E-083, containing 6.56 acres, more or less, as identified on attached Exhibit "A," and (2) entering into the Cooperation Agreement and Right-of-Way Consent Agreement with FPL for the benefit of the C-44 Project.

37. **Resolution No. 2014 - 1115** Authorize entering into a 490 day contract with ENCO LLC, the lowest responsive and responsible bidder, for the C-4 Canal Bank Improvements Sweetwater Flood Protection Berm Project, in the amount of \$1,758,000, for which \$1,300,000 in ad valorem funds are budgeted in FY15, and the remainder is subject to Governing Board approval of the FY16 budget; providing an effective date. (Contract number 4600003169) (OEC, John Mitnik, ext. 2679)

Summary:

The C-4 Canal conveys storm water by gravity from west to east along its entire length and discharges through control structure S-25B to the C-6 Canal (Miami River), which flows into Biscayne Bay. The C-4 Canal drainage system, as originally constructed, was not designed to accommodate the runoff produced from the high level of development that has occurred to support the population currently residing in the low-lying C-4 Basin. In response to the widespread flooding in the C-4 Basin during Hurricane Irene in 1999 and an unnamed storm in 2000, water managers from the District and other local governmental agencies created the C-4 Canal Flood Protection Project. As a part of the C-4 Canal Flood Protection Project, the District will construct flood protection berm and wall in phases along the C-4 Canal through sections of City of Sweetwater and unincorporated Miami-Dade County.

The objective of the C-4 Canal Bank Improvements Sweetwater Flood Protection Berm Project is to construct 5,196 linear feet of earthen berm along the north bank of

the C-4 Canal between SW 97th Avenue and SW 107th Avenue in conformance with the larger picture C-4 Flood Protection Project. The improved canal bank will provide flood protection up to elevation 8 feet NGVD29 along this segment of the C-4 Canal.

Staff Recommendation:

Board approval is requested at the November Governing Board meeting. Not implementing C-4 Canal Bank Improvements Sweetwater Project would result in non-fulfillment of the District's agreement to the C-4 Flood Protection Project and the C-4 Memorandum of Understanding (MOU) adopted at the March 2013 Governing Board. The successful implementation and operation of the MOU is contingent of the C-4 improvements including, but not limited to, the various canal bank improvement projects.

38. General Public Comment

Staff Reports

- 39. Monthly Financial Report - Doug Bergstrom, Division Director, Administrative Services Division
- 40. General Counsel's Report - Edward Artau
- 41. Executive Director's Report - Blake Guillory
Report of permits issued by authority delegated to the Executive Director from October 1-31, 2014.
- 42. Board Comment

Attorney Client Sessions

43. Attorney Client Session - USA

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2013), to discuss strategy related to litigation expenditures and/or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno.

ATTENDEES: Governing Board Members F. Barber, S. Batchelor, M. Hutchcraft, M. Peterson, J. Moran, D. O'Keefe, J. Portuondo, K. Powers; Executive Director B. Guillory; District attorneys E. Artau, K. Burns, J. Collier, C. Kowalsky. (Edward L. Artau, ext. 6431)

Action Items, (if any), Stemming from Attorney/Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2013), to discuss strategy related to litigation expenditures and/or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Edward L. Artau, ext. 6431)

44. Attorney Client Session - FEMA

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2013), to discuss strategy related to litigation expenditures and/or settlement negotiations in South Florida Water Management District v. FEMA, et al., United States District Court, Southern District of Florida, Case No. 13-80533-CIV-Middlebrooks/Brannon.

ATTENDEES: Governing Board Members F. Barber, S. Batchelor, M. Hutchcraft, M. Peterson, J. Moran, D. O'Keefe, J. Portuondo, K. Powers; Executive Director B. Guillory; District attorneys E. Artau, K. Burns, J. Collier, C. Kowalsky. (Edward L. Artau, ext. 6431)

Action Items, (if any), Stemming from Attorney/Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2013), to discuss strategy related to litigation expenditures and/or settlement negotiations in South Florida Water Management District v. FEMA, et al., United States District Court, Southern District of Florida, Case No. 13-80533-CIV-Middlebrooks/Brannon. (Edward L. Artau, ext. 6431)

45. Adjourn